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January 16, 2018

VIA NLRB ELECTRONIC FILING

Robert A. Giannasi
Chief Administrative Law Judge
1015 Half Street SE
Washington, D.C. 20570-0001

Re: United Government Security Officers of America International
And Its Local 129
and Joseph Anthony Farrell
Case No. 04-CB-192246

Dear Judge Giannasi:

On behalf of United Government Security Officers of America International and its Local 129 (hereinafter, Respondents), enclosed please find for filing:

- (1) Respondents' Motion To File Late Their Answer To The Amended Complaint;
- (2) Affidavit of Alan J. McDonald In Support Of Respondents' Motion To File Late Their Amended Complaint; and
- (3) Respondents' Proposed Answer To The Amended Complaint.

Thank you.

Very truly yours,


Alan J. McDonald

AJM/sh
Enclosures

MCDONALD LAMOND CANZONERI

Robert A. Giannasi
Chief Administrative Law Judge
Page 2 of 2
January 16, 2018

cc: Dennis P. Walsh, Regional Director
Patricia Tisdale, Esq.
Desiree Sullivan, President UGSOA
Jeff Miller, Director UGSOA
Joseph Farrell

UNITED STATES OF AMERICA BEFORE
THE NATIONAL LABOR RELATIONS BOARD
REGION FOUR

In the matter of

United Government Security Officers
of America International and its Local
129,

and

Joseph Anthony Farrell, an individual

Case No. 04-CB-192246

**RESPONDENTS' MOTION TO FILE LATE THEIR ANSWER TO THE
AMENDED COMPLAINT**

Now come United Government Security Officers Of America International (Union) and its Local 129 (Local) (collectively referred to herein as Respondent Unions), and move pursuant to NLRB Rules and Regulations at 29 C.F.R. §102.2(d) for permission to file late their Answer to the Amended Complaint, a copy of which is attached hereto and made a part hereof. The grounds for this motion are that although the Answer to the Complaint was timely filed, an Answer to the Amendment to the Complaint was not filed because the Respondents were in the process of changing counsel to represent it in all pending cases when the Amendment issued. Former counsel did not timely file an answer and did not notify either the Respondents or successor counsel of the issuance of the Amendment. For the reasons set forth in detail in the Affidavit of Alan J. McDonald, filed herewith, the Respondents believe that granting of this Motion will not prejudice the General Counsel's ability to

prosecute this case, and will otherwise be in the best interests of a just disposition of the merits of the case.

Respectfully submitted,

On behalf of the United Government
Security Officers of America International
and its Local 129,

By its attorneys,

/s/ Alan J. McDonald
Alan J. McDonald
McDonald Lamond Canzoneri
352 Turnpike Road, Suite 310
Southborough, MA 01772-1756
508-485-6600
amcdonald@masslaborlawyers.com

Date: January 16, 2018

CERTIFICATE OF SERVICE

I, Alan J. McDonald, hereby certify that I have on this day served a copy of the foregoing Respondents' Motion To File Late Their Answer To The Amended Complaint and Affidavit of Attorney Alan J. McDonald upon Patricia Tisdale, Esq., [Patrice.Tisdale@nrlrb.gov] Field Attorney, NLRB Region 4, 615 Chestnut Street, Philadelphia, PA, 19106, and upon Joseph Farrell [daytonajoe Farrell@gmail.com] by email.

Dated: January 16, 2018

/s/ Alan J. McDonald
Alan J. McDonald

UNITED STATES OF AMERICA BEFORE
THE NATIONAL LABOR RELATIONS BOARD
REGION FOUR

In the matter of

United Government Security Officers
of America International and its Local
129,

and

Joseph Anthony Farrell, an individual

Case No. 04-CB-192246

**AFFIDAVIT OF ATTORNEY ALAN J. MCDONALD ON BEHALF OF
RESPONDENTS UNITED GOVERNMENT SECURITY OFFICERS OF
AMERICA INTERNATIONAL AND ITS LOCAL 129 IN SUPPORT OF THEIR
MOTION TO FILE LATE THEIR ANSWER TO THE AMENDED COMPLAINT**

In support of the Respondents' Motion to File Late Their Answer to the Amended Complaint in the above captioned matter, I, Alan J. McDonald, offer the following representations that are true and accurate to the best of my personal knowledge and belief:

1. My name is Alan J. McDonald. I am a lawyer licensed by the Massachusetts Board of Bar Overseers to practice law, and for the past 44 years have been practicing union side labor law for labor organizations in Massachusetts and beyond. I am also the managing partner of the law firm of McDonald Lamond Canzoneri (MLC), a law firm engaged primarily in the practice of union side labor law. As explained in further detail below, MLC has only very recently been retained by the Respondent United Government Security Officers Of America International (hereinafter, the Respondent Union) to represent it and its Local 29 (hereinafter, the Respondent Local) in the above-captioned matter.

2. The original Complaint (attached as Exhibit A) in this case issued on June 28, 2017, and was answered by the Respondents on July 11, 2017 (attached as Exhibit B).

3. The Amended Complaint (attached as Exhibit C) issued on September 29, 2017, but was not answered by the Respondents' then counsel, Robert Kapitan, Esquire.

4. Between on or about October 1, 2017 and December 1, 2017 the Respondents were in the process of terminating their relationship with Attorney Kapitan and retaining MLC to serve as counsel to them.

5. By letter dated November 1, 2017, Attorney Kapitan notified the Respondent Union of the remaining twenty-one cases he had pending. The instant case was not listed on that letter.

6. MLC did not officially take over representation of the Respondents until on or about November 17, 2017, the day after Attorney Kapitan's services to the Respondents ended. Shortly thereafter, the Union provided MLC with the list of pending cases that Kapitan had provided in his November 1, 2017 letter.

7. At the time it began representation of the Respondents, MLC did not know about the instant case. It first learned of it on or about December 21, 2017 when Region 4 Field Attorney Patrice Tisdale mentioned it in a telephone discussion with the undersigned about another Region 4 case. At my request, and by e-mail dated December 21, 2017, Attorney Tisdale forwarded me copies of the Complaint, the Respondent's Answer and the Amended Complaint by e-mail.

8. Due to the holidays, and the need to attend to the other pending twenty-one (21) cases referred to in paragraph 4 above, eleven (11) of which were scheduled for hearing dates across the country between November 29, 2017 and February 21, 2018, MLC was unable to meet with responsible agents of the Respondents until the first week of January 2018, and to collect and review relevant case documents and other evidence until the end of the following week.

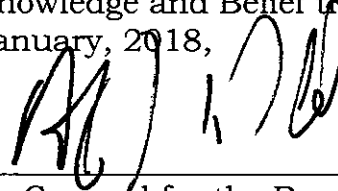
9. The Amended Complaint provides further detail to the original complaint, but does not alter the underlying substance of the Complaint. Accordingly, the proposed Answer to the Amended Complaint does not add defenses to those already set forth in the Respondents' Answer. Rather, it simply responds to the additional factual details set forth in Subsections 6 (a), (b) and (c) of the Amended Complaint, largely in the affirmative, and denies the additional legal allegations set forth in subsections 6 (d) and (e) of the Amended Complaint for the same reasons that it denied the legal allegations in the original Complaint.

10. The General Counsel is not in any way prejudiced or unduly burdened in the prosecution of this matter by the granting of the Respondents' Motion to File Late Its Answer to the Amended Complaint. Further, the hearing in this case is not scheduled until March 5, 2018, giving the General Counsel

sufficient time to prepare for hearing even if the Answer to the Amended Complaint requires additional preparation by it.

10. In light of the circumstances set forth above, the Respondents respectively request that its Motion to File Late Its Answer to the Amended Complaint, a copy of which is attached hereto, be granted.

Sworn To Under the Pains and Penalties of
Perjury to the Best of My Personal
Knowledge and Belief this 16th Day of
January, 2018,



By Counsel for the Respondents,
Alan J. McDonald, Esquire
McDonald Lamond Canzoneri
352 Turnpike Road, Suite 310
Southborough, MA 01772-1756
508-485-6600
amcdonald@masslaborlawyers.com

Exhibit A

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION FOUR**

**UNITED GOVERNMENT SECURITY OFFICERS
OF AMERICA INTERNATIONAL AND ITS
LOCAL 129**

and

Case 04-CB-192246

JOSEPH ANTHONY FARRELL, an Individual

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by Joseph Anthony Farrell, an Individual (the Charging Party). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that United Government Security Officers of America (the International), and United Government Security Officers of America Local 129 (the Local) (the International and the Local are collectively called Respondents) have violated the Act as described below.

1. The charge in this proceeding was filed by the Charging Party on February 1, 2017, and a copy was served on Respondents by U.S. mail on February 2, 2017.

2. (a) At all material times, Akal Security, Inc. (the Employer) has been a corporation with locations throughout the United States, including an office and place of business at the William J. Nealon Federal Building and United States Courthouse in Scranton, Pennsylvania, where it has been engaged in providing security services.

(b) In conducting its operations during the 12-month period ending May 31, 2017, Respondent performed services valued in excess of \$50,000 in States other than the Commonwealth of Pennsylvania.

(c) At all material times, the Employer has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

3. At all material times, Respondent has been a labor organization within the meaning of Section 2(5) of the Act.

4. (a) At all material times, Jeffrey Miller has been the International Director and Divisional Vice President for the Court Security Officers Program for the International and has been an agent of the International within the meaning of Section 2(13) of the Act.

(b) At all material times, Daniel Wigley and Robert Reuther have been the President and Vice-President of the Local, respectively, and have been agents of the Local within the meaning of Section 2(13) of the Act.

5. (a) At all material times, by virtue of Section 9(a) of the Act, Respondents have been the exclusive collective-bargaining representatives of the following employees of the Employer (the Unit):

All full-time and shared position Federal Court Security Officers (CSOs), Federal Special Security Officers (SSOs), Lead Federal Court Security Officers (LCSOs) and Lead Federal Special Security Officers (LSSOs) employed by the Employer in the 3rd Circuit consisting of UGSOA Local 129, in the Middle District of the State of Pennsylvania in the City of Scranton, excluding all other employees including office clerical employees and professional employees as defined in the National Labor Relations Act.

(b) At all material times, Respondents and the Employer have maintained and enforced a collective-bargaining agreement covering the terms and conditions of employment of the Unit, including a grievance and arbitration procedure.

6. (a) Since about November 7, 2016, Respondents have failed and refused to file a grievance on the Charging Party's behalf over the Employer's failure to reinstate his Union Seniority to his original date of hire upon his return from a medical leave of absence.

(b) Respondents engaged in the conduct described in subparagraph (a) because of the Charging Party's internal Union activities and because of the Charging Party's disputes and disagreements with officials of Respondents.

(c) Respondents engaged in the conduct described in subparagraph (a) for arbitrary reasons.

7. By the conduct described above in paragraph 6, Respondents have been restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(b)(1)(A) of the Act.

8. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, as part of the remedy for the unfair labor practices alleged above in paragraph 6, the General Counsel seeks an Order requiring that Respondents promptly request that the Employer reinstate the Charging Party's Union Seniority to his original date of hire. The General Counsel also requests that Respondents be ordered to make the Charging Party whole for any loss of earnings and other benefits, as well as consequential damages suffered, as a result of the failure to reinstate his Union Seniority.

ANSWER REQUIREMENT

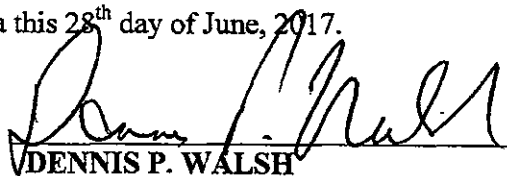
Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before July 12, 2017, or postmarked on or before July 11, 2017.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT at **10:00 a.m. on October 12, 2017** and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board at 615 Chestnut Street, Suite 710, Philadelphia, Pennsylvania. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Signed at Philadelphia, Pennsylvania this 28th day of June, 2017.



DENNIS P. WALSH
Regional Director, Fourth Region
National Labor Relations Board

Exhibit B

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION FOUR**

**UNITED GOVERNMENT SECURITY
OFFICERS OF AMERICA,
INTERNATIONAL UNION AND ITS LOCAL
129**

And

**JOSEPH ANTHONY FARRELL, AN
INDIVIDUAL**

CASE NO. 04-CB-192246

ANSWER OF RESPONDENT

NOW COME Respondents and answer the Complaint issued in the above-captioned case:

1. Respondents admit the allegations in Paragraph 1 of the Complaint.
2. Respondents admit the allegations in Paragraph 2, subsections a, b, and c of the Complaint.
3. Respondents admit the allegations in Paragraph 3 of the Complaint.
4. Respondents admit the allegations in Paragraph 4, subsections a and b of the Complaint.
5. Respondents admit the allegations in Paragraph 5, subsections a and b of the Complaint.
6. Respondents deny the allegations in Paragraph 6, subsections a, b and c of the Complaint.
7. Respondents deny the allegations in Paragraph 7 of the Complaint.

8. Respondents deny that the Charging Party is owed any remedy including, but not limited to, an order reinstating his union seniority to his original hire date or loss of earnings and consequential damages.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

Respondents deny that they engaged in or are engaging in any unfair labor practice in violation of the National Labor Relations Act ("NLRA") as alleged in the underlying Complaint.

SECOND DEFENSE

To the extent any allegations were not made and expressly included in an unfair labor practice charge filed within six (6) months of the alleged violation, the allegations are time- barred by the applicable six-month statute of limitations.

THIRD DEFENSE

Respondents deny each and every allegation of the underlying Complaint that is not further admitted.

FOURTH DEFENSE

The remedies requested under the Complaint violate the provisions of the Collective Bargaining Agreement between Respondents and Akal.

WHEREFORE, having fully answered the Complaint, Respondents demand that the underlying Complaint be dismissed in its entirety and that the Board award

Respondents their attorneys' fees and such other relief as the Board finds just and proper.

Dated this 11th day of July, 2017.

Respectfully submitted,

/s/ Robert B. Kapitan
ROBERT B. KAPITAN (Ohio Reg. 0074327)
United Government Security Officers of
America, International Union
2879 Cranberry Highway
E. Wareham, MA 02538
(774) 678-0936 - telephone
(774) 678-4658 - facsimile
rkapitan@ugsoa.com

PROOF OF SERVICE

The foregoing Answer of Respondents was served via electronic mail to the following on July 11, 2017.

Joseph Farrell
daytonajoefarrell@gmail.com

and

NLRB Region 4
Patrice Tisdale
Patrice.tisdale@nlrb.gov

/s/ Robert B. Kapitan
Robert B. Kapitan

Exhibit C

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION FOUR**

**UNITED GOVERNMENT SECURITY OFFICERS
OF AMERICA INTERNATIONAL AND ITS
LOCAL 129 (AKA SECURITY)**

and

Case 04-CB-192246

JOSEPH ANTHONY FARRELL, an Individual

AMENDMENT TO COMPLAINT

A Complaint and Notice of hearing having issued in this matter on June 28, 2017,

IT IS ORDERED, pursuant to Section 102.17 of the Rules and Regulations of the National Labor Relations Board (the Board), that the Complaint and Notice of Hearing is amended as follows:

Delete paragraph 6 of the Complaint and substitute the following therefor:

6. (a) About October 12, 2016, Respondents conducted a vote among Unit members as to whether the Charging Party should have his Union Seniority reinstated to his original date of hire upon his return from a medical leave of absence.

(b) Most of the Unit members who participated in the vote described above in subparagraph (a) would have been adversely affected by voting to retain the Charging Party's seniority.

(c) Since about November 3, 2016, Respondents have failed and refused to file a grievance on the Charging Party's behalf over the Employer's failure to reinstate his Union Seniority to his original date of hire upon his return from a medical leave of absence.

(d) Respondents engaged in the conduct described in subparagraphs (a) and (b) because of the Charging Party's internal Union activities and because of the Charging Party's disputes and disagreements with officials of Respondents.

(e) Respondents engaged in the conduct described in subparagraph (a) through (c) for arbitrary reasons.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this**

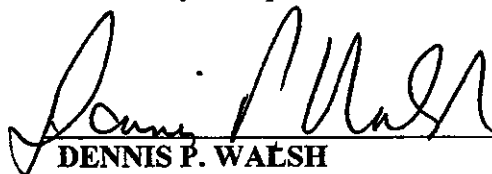
office on or before October 13, 2017, or postmarked on or before October 12, 2017. Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT at **10:00 a.m.** on **October 12, 2017**, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Signed at Philadelphia, Pennsylvania this 29th day of September, 2017.



DENNIS P. WALSH

Regional Director, Fourth Region
National Labor Relations Board

UNITED STATES OF AMERICA BEFORE
THE NATIONAL LABOR RELATIONS BOARD
REGION FOUR

In the matter of

United Government Security Officers
of America International and its Local
129,

and

Joseph Anthony Farrell, an individual

Case No. 04-CB-192246

RESPONDENTS' PROPOSED ANSWER TO THE AMENDED COMPLAINT

Now comes the Respondents United Government Security Officers Of America International Union and its Local 29 and answer the Amendment to Complaint of the General Counsel in this matter as follows:

1. The Respondents incorporate herein the Answer to the Complaint in this matter in full.
2. The Respondent's answer paragraph 6 of the Amendment to the Complaint as follows:

6(a). The Respondents agree that they conducted a vote among union members to determine whether the terms of an existing collective bargaining agreement should be altered to permit reinstatement of the Charging Party's original hiring as his seniority date under said collective bargaining agreement.

6(b). The Respondents agree that the reinstatement of the Charging Party's prior seniority date would have placed him ahead of many, but not necessarily all, of the union members voting on the issue presented

as described in paragraph 6(a) above for purposes of bargaining unit seniority. Such reinstatement had the potential to adversely affect one or more of those affected by it for purposes of bargaining unit seniority, but would not have adversely affected any of them for purposes of benefit seniority.

6(c). The Respondents agree that they have not filed a grievance over the failure of the Employer to reinstate the Charging Party's bargaining unit seniority to his original date of hire upon his return to work following his departure from work. The Respondents do not agree that the Charging Party was on a medical leave while out of work. Rather, they believe that for part of the time he was out of work he was on a workers' compensation leave, and that at some point during that leave, his employment status was terminated within the bargaining unit.

6(d). Denied

6(e). Denied

Respectfully submitted,

On behalf of the United Government
Security Officers of America International
and its Local 129,

By its attorneys,

/s/ Alan J. McDonald

Alan J. McDonald

McDonald Lamond Canzoneri

352 Turnpike Road, Suite 310

Southborough, MA 01772-1756

508-485-6600

amcdonald@masslaborlawyers.com

Date: January 16, 2018

CERTIFICATE OF SERVICE

I, Alan J. McDonald, hereby certify that I have on this day served a copy of the foregoing Respondents' Proposed Answer To The Amended Complaint upon Patricia Tisdale, Esq., [Patrice.Tisdale@nrlrb.gov] Field Attorney, NLRB Region 4, 615 Chestnut Street, Philadelphia, PA, 19106, and upon Joseph Farrell [daytonajoe Farrell@gmail.com] by email.

Dated: January 16, 2018

/s/ Alan J. McDonald

Alan J. McDonald